

Town of Fort Myers Beach  
Agenda Item Summary

Blue Sheet Number: 2010-064

1. **Requested Motion:**

**Meeting Date:** June 7, 2010

Motion to designate Mayor Kiker and the Town Manager to continue working together with Commissioner Judah and County Manager Hawes in developing recommendations for use of the Seafarer's Mall property.

**Why the action is necessary:**

In order to insure the property is utilized to the greatest benefit for the Town and its taxpayers.

**What the action accomplishes:**

Insures that the Town has an active voice about the use of the property.

2. **Agenda:**

☐ Consent  
☒ Administrative

3. **Requirement/Purpose:**

☐ Resolution  
☐ Ordinance  
☐ Other

4. **Submitter of Information:**

☐ Council  
☒ Town Staff  
☐ Town Attorney


5. **Background:**

At the June 1, 2010 Lee County BOCC meeting, the Board voted to approve the purchase agreement for the parcels located at 1080, 1113 and 1130 Estero Boulevard, which has been designated as the Seafarer's Mall and accompanying lands.

6. **Alternative Action:**

7. **Management Recommendations:**

8. **Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. **Council Action:**

☐ Approved    ☐ Denied    ☐ Deferred    ☐ Other

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20100462**

**1. ACTION REQUESTED/PURPOSE:**

Approve Purchase Agreement for the acquisition of four parcels, located at 1080, 1113 and 1130 Estero Blvd., Fort Myers Beach, in the amount of \$ \_\_\_\_\_ (tbd); authorize payment of costs to close and the Division of County Lands to handle all documentation necessary to complete transaction. Authorize the demolition of the +/- 38,000 sq. ft. building located at 1113 Estero Blvd. This item was deferred for one week at the May 25, 2010 board meeting.

**2. FUNDING SOURCE:**

To be determined based on Board discussion and policy direction.

**3. WHAT ACTION ACCOMPLISHES:**

Acquires property on Fort Myers Beach across from and fronting on the Gulf of Mexico.

**4. MANAGEMENT RECOMMENDATION:** Approve

**5. Departmental Category:** CO2

**6. Meeting Date:** 6/1/2010

**7. Agenda:**

Carryover

**8. Requirement/Purpose:** (specify)

- ☒ Statute 125  
☐ Ordinance  
☐ Admin Code  
☐ Other

**9. Request Initiated**

**Commissioner:**

**Department:** COUNTY LANDS

**Division:** No Divisions

**By:** Karen Maguire

**10. Background:**

The parcel located at 1113 Estero Blvd. is improved with a +/- 38,000 sq. ft. building (land area is +/- 31,500 sq. ft.). Staff recommends the demolition of this building and pursue the use of the lot as future parking. Demolition of this structure is estimated at \$100,000, assuming no asbestos is present. This parcel does not front on the gulf, but is across the street from the other three parcels that do front on the Gulf. This parcel previously had an Exxon station upon it and has petroleum contamination. Exxon appears to be the responsible party, unless another disturbs the contaminated area. The three parcels located at 1080 and 1130 Estero Blvd. are vacant Gulf front properties. They consist of 375 linear front feet along Estero Blvd. (or +/- 96,000 sq. ft.). The site's previous use as a hotel, with possible dry-cleaning operations, will require investigation for potential chemical contamination. The total land area for this acquisition is +/- 2.9 acres. Because of the sensitivities in negotiating a contract, funding options that relate to tourist tax reserves have not been brought to the Tourist Development Council as of yet. Staff would recommend that this be done and TDC input received prior to finalizing the source(s) of funding for the purchase. Interest to Acquire: Fee simple +/- 2.9 acres and a +/- 38,000 sq. ft. building

**Property Details:**

Owner: Fifth Third Bank

Address: 1080, 1113 and 1130 Estero Blvd., Fort Myers Beach

STRAP Nos.: 24-46-23-W3-00013.0000; 14.0000; 15.0000 and 24-46-23-W3-00206.0010

**Purchase Details:**

Purchase Price: \$ \_\_\_\_\_ (tbd) Costs to Close: \$50,000

**Appraisal Information:**

Appraised Value: TBD Company: Hanson Real Estate Advisors, Inc.

Staff Recommendation: Staff recommends Board approval.

Attachments: Title Data; Location Map; 5-Year Sales History

**11. Required Review:**

<i>Karon Maguire</i>	<i>Emma Wolf</i>	<i>Mike Figueroa</i>	<i>David Harris</i>	<i>Dawn Perry-Lehnert</i>	<i>Peter Weston</i>
COUNTY LANDS	Budget Analyst	Risk	Budget Services	County Attorney	County Manager

**12. Commission Action:**

## Division of County Lands

### In House Title Search

Search No. 24-46-23-W3-00013.0000

Date: April 6, 2010

Parcel: 3

Project: Fort Myers Beach Property  
"FMBP"

To: Michele S. McNeill, SR/WA

Property Acquisition Agent

From: Bill Abramovich

Real Estate Title Examiner

STRAP: 24-46-23-W3-00013.0000

This search covers the period of time from January 1, 1940, at 8:00 a.m. to March 24, 2010, at 5:00 p.m.

**Subject Property:** See Exhibit "A"

Title to the subject property is vested in the following:

### ***Fifth Third Bank***

by that certain instrument dated January 26, 2010, recorded January 28, 2010, in Instrument #2010000023676, Public Records of Lee County, Florida.

### **Subject to:**

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Telephone Company Easement recorded in Official Record Book 2765, Page 3252 and re-recorded in Official Record Book 2772, Page 209, Public Records of Lee County, Florida.
3. Telephone Company Easement recorded in Official Record Book 2765, Page 3262, and re-recorded in Official Record Book 2772, Page 207, Public Records of Lee County, Florida.
4. Resolution recorded in County Commissioners Minute Book 11, Page 564, Public Records of Lee County, Florida. *(road R/W)*
5. Perpetual Easement recorded in Official Record Book 3181, Page 2817, Public Records of Lee County, Florida. *To Lee County - Beach Renourishment*
6. Perpetual Beach Storm Damage Reduction Easement recorded in Official Record Book 3348, Page 3194, Public Records of Lee County, Florida. *To Lee County*
7. Lee County Ordinances relating to garbage and solid waste collection, recorded in Official Record Book 2189, Pages 3281 and 3334, Public Records of Lee County, Florida.

## Division of County Lands

### In House Title Search

Search No. 24-46-23-W3-00013.0000

Date: April 6, 2010

Parcel: 3

Project: Fort Myers Beach Property  
"FMBP"

**Tax Status:** Taxes for 2009 have been paid on December 10, 2009 in the amount of \$58,148.45  
*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**

## Division of County Lands

### In House Title Search

Search No. 24-46-23-W3-00015.0000

Date: April 7, 2010

Parcel: 5

Project: Fort Myers Beach Property  
"FMBP"

To: Michele S. McNeill, SR/WA

Property Acquisition Agent

From: Bill Abramovich

BA

Real Estate Title Examiner

STRAP: 24-46-23-W3-00015.0000

This search covers the period of time from January 1, 1940, at 8:00 a.m. to March 24, 2010, at 5:00 p.m.

**Subject Property:** See Exhibit "A"

Title to the subject property is vested in the following:

### *Fifth Third Bank*

by that certain instrument dated January 26, 2010, recorded January 28, 2010, in Instrument #2010000023675, Public Records of Lee County, Florida.

### **Subject to:**

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Perpetual Beach Storm Damage Reduction Easement to Lee County, recorded in Official Record Book 3431, Page 3330, Public Records of Lee County, Florida.
3. Lee County Ordinances relating to garbage and solid waste collection, recorded in Official Record Book 2189, Pages 3281 and 3334, Public Records of Lee County, Florida.

**Tax Status:** Taxes for 2009 have been paid on December 10, 2009 in the amount of \$19,382.82  
(The end user of this report is responsible for verifying tax and/or assessment information.)

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**

## Division of County Lands

### In House Title Search

Search No. 24-46-23-W3-00014.0000

Date: April 6, 2010

Parcel: 4

Project: Fort Myers Beach Property  
"FMBP"

To: Michele S. McNeill, SR/WA

Property Acquisition Agent

From: Bill Abramovich *B.A.*

Real Estate Title Examiner

STRAP: 24-46-23-W3-00014.0000

This search covers the period of time from January 1, 1940, at 8:00 a.m. to March 24, 2010, at 5:00 p.m.

**Subject Property:** See Exhibit "A"

Title to the subject property is vested in the following:

### *Fifth Third Bank*

by that certain instrument dated January 26, 2010, recorded January 28, 2010, in Instrument #2010000023676, Public Records of Lee County, Florida.

### **Subject to:**

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Order of Taking for road right-of-way, recorded in Official Record Book 1164, Page 129, Public Records of Lee County, Florida.
3. Easement to Florida Power and Light Company, recorded in Official Record Book 2765, Page 3254, as re-recorded in Official Record Book 2772, Page 205, Public Records of Lee County, Florida.
4. Perpetual Beach Storm Damage Reduction Easement to Lee County, recorded in Official Record Book 3348, Page 3191, Public Records of Lee County, Florida.
5. Lee County Ordinances relating to garbage and solid waste collection, recorded in Official Record Book 2189, Pages 3281 and 3334, Public Records of Lee County, Florida.

**Division of County Lands**

**In House Title Search**

Search No. 24-46-23-W3-00014.0000

Date: April 6, 2010

Parcel: 4

Project: Fort Myers Beach Property  
"FMBP"

**Tax Status:** Taxes for 2009 have been paid on December 10, 2009 in the amount of \$23,729.27  
*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**

**Division of County Lands**

**In House Title Search**

Search No. 24-46-23-W3-00206.0010

Date: April 7, 2010

Parcel: 6

Project: Fort Myers Beach Property  
"FMBP"

To: Michele S. McNeill, SR/WA  
Property Acquisition Agent

From: Bill Abramovich *BA*  
Real Estate Title Examiner

STRAP: 24-46-23-W3-00206.0010

This search covers the period of time from January 1, 1940, at 8:00 a.m. to March 24, 2010, at 5:00 p.m.

**Subject Property:** See Exhibit "A"

Title to the subject property is vested in the following:

***Fifth Third Bank***

by that certain instrument dated January 26, 2010, recorded January 28, 2010, in Instrument #2010000023677, Public Records of Lee County, Florida.

**Subject to:**

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Easement for sidewalk to City of Fort Myers Beach, recorded in Official Record Book 4033, Page 277, Public Records of Lee County, Florida.
3. Order of Taking, recorded in Official Record Book 1164, Page 129, Public Records of Lee County, Florida.
4. County Ordinances relating to garbage and solid waste collection, recorded in Official Record Book 2189, Pages 3281 and 3334, Public Records of Lee County, Florida.
5. Resolution of the Board of Zoning Adjustments, recorded in Official Record Book 2036, Page 4724, Public Records of Lee County, Florida. ✓
6. Notice of Election to Submit to Development Regulation, recorded in Official Record Book 2887, Page 2874, Public Records of Lee County, Florida.
7. Seafarer's Plaza Development Agreement, recorded in Official Record Book 3646, Page 2893, Public Records of Lee County, Florida.



**Division of County Lands**

**In House Title Search**

Search No. 24-46-23-W3-00206.0010

Date: April 7, 2010

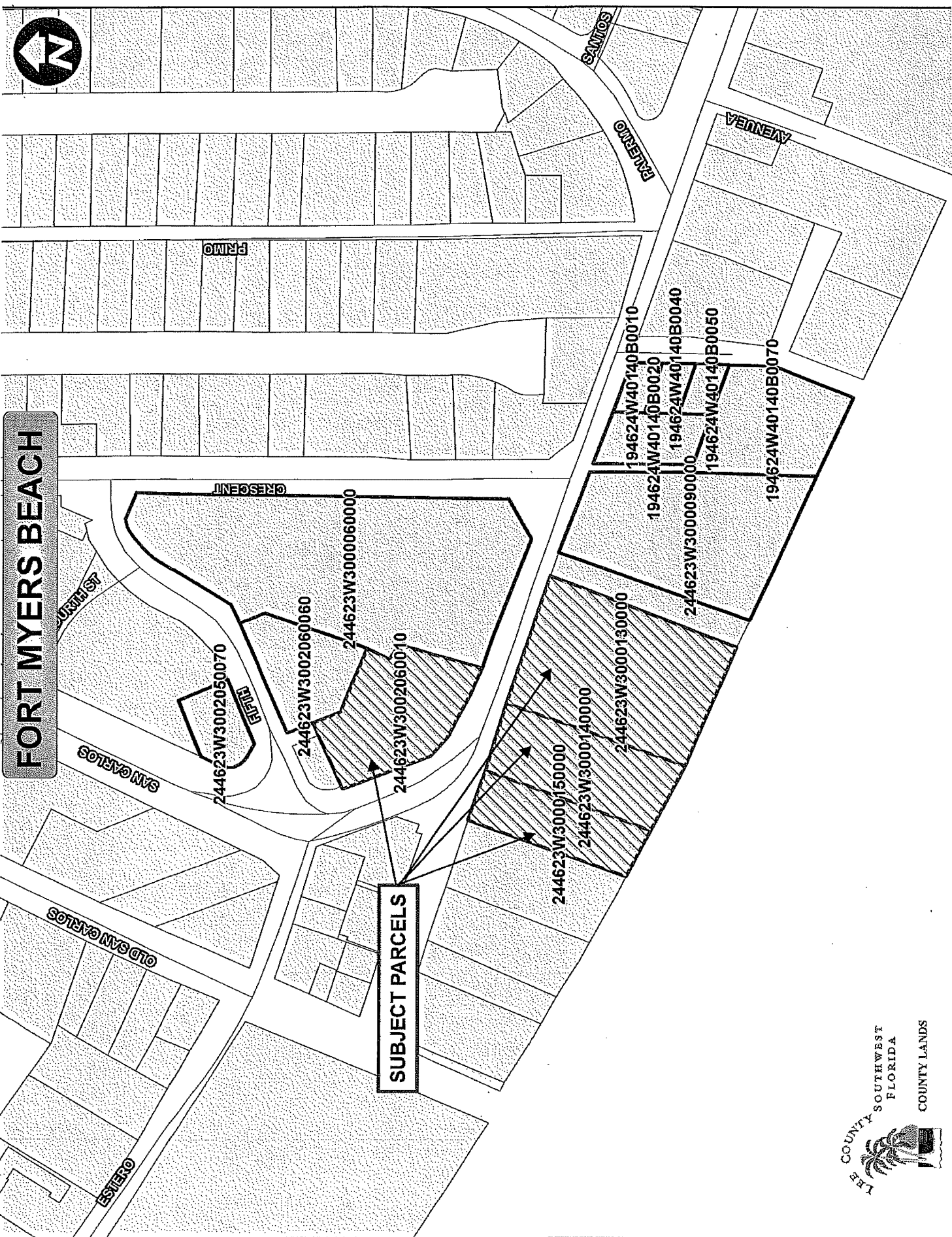
Parcel: 6

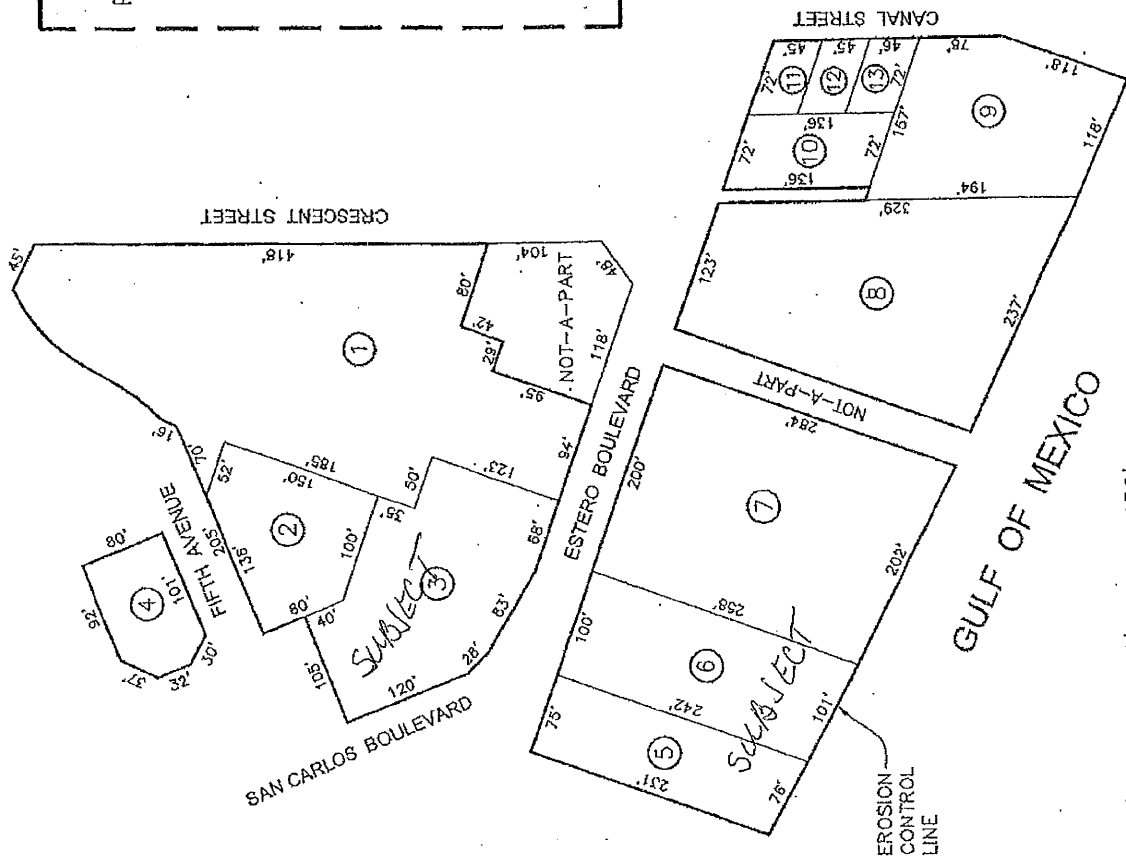
Project: Fort Myers Beach Property  
"FMBP"

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**Tax Status:** Taxes for 2009 have been paid on December 10, 2009 in the amount of \$42,300.89  
*(The end user of this report is responsible for verifying tax and/or assessment information.)*

**The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.**





# AREA TABLE

PARCEL NO.	ACRES±	SQUARE FEET±
1	2.32	84,507
2	0.39	16,845
3	0.72	31,560
4	0.21	9,041
5	0.41	17,735
6	0.57	25,003
7	1.24	54,213
8	1.22	53,079
9	0.62	27,008
10	0.21	9,220
11	0.07	3,050
12	0.07	3,054
13	0.07	3,104
TOTAL	7.75	337,419

NOTES:  
 AREAS FOR THE PARCELS ALONG THE GULF OF MEXICO WERE CALCULATED FROM THE RIGHT OF WAY LINE OF ESTERO BOULEVARD TO THE EROSION CONTROL LINE.

CALCULATIONS ARE BASED ON FIELD SURVEYS BY BEAN, WHITAKER, LUTZ & KAREH, INC. DATED 12-18-08 AND A SURVEY BY HARRIS-JORGENSEN INC. DATED 10-07-02.

## TIMES SQUARE ASSEMBLAGE

Bean, Whitaker, Lutz & Kareh, Inc. (DB 4010)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

13044 MORRECK BOULEVARD, FORT MYERS, FLORIDA 33904-8810 (239) 481-1331

WS40120 - OVERALL DWG

DATE 1-14-09

PROJECT NO. 40120

DRAWN BY C.D.K.

SCALE 1" = 150'

SHEET 1 OF 2

FILE NO. (S-7-14)

24-45-23

## 5-Year Sales History

Parcel STRAP Nos.

24-46-23-W3-00013.0000, 24-46-23-W3-00014.0000  
24-46-23-W3-00015.0000 & 24-46-23-W3-00206.0010

FT. Myers Beach Acquisition Project

NO SALES in PAST 5 YEARS

## **CARRY OVER AGENDA**

### **BACK UP INFORMATION FOR ADMINISTRATIVE**

#### **ITEM 5. A) MAY 25, 2010**

Information provided:

- 1.) Agreement for Purchase and Sale of Real Estate
- 2.) Affidavit of Interest in Real Property
- 3.) Appraisal Executive Summary
- 4.) Memorandum regarding Funding for Ft. Myers Beach property purchase
- 5.) Subject Area Table and Sketch

The purchase price for this property is \$5,600,000.

The subject property consists of two parcels:

- a.) a gulf front parcel of 375 linear feet or +/- 96,000 sq. ft.
- b.) an improved parcel (off water) that is +/- 31,500 sq. ft.

The appraised value is \$6,310,000.

**ORIGINAL**

This document prepared by

Lee County

County Lands Division

Project: Fort Myers Beach

STRAP No.: 24-46-23-W3-00013.0000; 14.0000 and 15.0000, 24-46-23-W3-00206.0010

**BOARD OF COUNTY COMMISSIONERS**

**LEE COUNTY**

**AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE**

THIS AGREEMENT for purchase and sale of real property is made this 27<sup>th</sup> day of MAY, 2010 by and between **Fifth Third Bank**, hereinafter referred to as SELLER, whose address is 999 VANDERBILT BEACH Rd, 7<sup>th</sup> Floor, and **Lee County**, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

**WITNESSETH:**

1. **AGREEMENT TO PURCHASE AND TO SELL:** SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, four parcels of land consisting of 2.9 acres (126,500 square feet) more or less, and located at 1113 Estero Blvd., Fort Myers Beach, (improved with a +/- 31,500 s.f. building) and three contiguous vacant parcels located at 1080 & 1130 Estero Blvd. (+/- 95,000 s.f.) and more particularly described in the attached "Exhibit A" ("the Property"). This property will be acquired for the Fort Myers Beach ("the Project").
2. **PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Five Million, Six Hundred dollars and no/100 (\$5,600,000.00), payable at closing in U.S. Currency by official bank check.
3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER'S expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of the purchase price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal

access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the property and, except as otherwise provided herein, accepts the property "AS IS". In the event of any loss or damage to the property occurring between the date of this offer and the closing, BUYER has the option, in its sole discretion, to accept the damaged property or cancel this agreement without further obligation.

5. **SELLER'S INSTRUMENTS:** SELLER will pay for and provide:

A special warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance (deed/affidavit to be prepared by BUYER'S title company); subject to form approval by SELLER's counsel and BUYER's counsel.

5.01 **SELLER'S EXPENSES:** SELLER will pay for and provide:

- (a) Utility services up to, but not including the date of closing, if applicable;
- (b) taxes, prorated to the day before closing, however, if closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year;
- (c) any and all assessments levied against the property must be paid in full at closing;
- (d) documentary stamps on deed;
- (e) SELLER's attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing. BUYER is exempt from ad valorem taxation. SELLER will pay all taxes determined to be legally due and payable by the County Tax Collector. If closing occurs between October 31 and January 1, then the SELLER is responsible for the full year's ad valorem real estate taxes for the year without proration.

8. **ASSESSMENTS:** SELLER agrees that if BUYER discovers assessments during its due diligence process, it may cancel this Agreement.

9. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have thirty days, unless otherwise agreed by parties, from the date of this Agreement to examine the title and documents establishing legal access to the property. If title or legal access is found to be defective, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price to be agreed upon between BUYER and SELLER, or may terminate this Agreement without obligation.

10. **SURVEY:** BUYER may order the Property surveyed at BUYER's expense. SELLER agrees to provide access to the Property for the survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat those discrepancies, violations or encroachments as a title defect. BUYER represents and warrants to SELLER that it will take all necessary precautions with its surveyor to prevent damage to the Property or injury to any third party.

11. **ENVIRONMENTAL, MOLD, ASBESTOS, AND STRUCTURAL AND MECHANICAL AUDITS:** BUYER may perform or have performed, at BUYER's expense, such environmental, mold, asbestos, and/or structural and mechanical audits of the Property. If the audits identify any materials, environmental, mold, asbestos, and/or structural and mechanical conditions not acceptable to the BUYER, BUYER may elect to accept the Property in its existing condition or BUYER may terminate this Agreement without obligation.

12. **ENVIRONMENTAL LIABILITIES.** SELLER agrees to provide BUYER with copies of any and all documentation that Seller has regarding contamination associated with this site, including, but not limited to Phase I and Phase II reports SELLER has in its possession within 5 days of the full execution of this agreement.

BUYER is aware that the parcel located at 1113 Estero Boulevard is a known former service station site with environmental issues. The environmental issue involved is petroleum contamination (DER Facility Number 368510152). BUYER understands that Exxon Corporation may be the entity deemed liable and responsible for any clean-up costs associated with the contamination.



Notwithstanding the above, SELLER agrees BUYER may terminate this agreement, without further obligation, if BUYER determines, at its sole discretion, that BUYER will incur a financial liability related to the environmental contamination as a result of acquiring this property.

**13. TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER's written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

**14. DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 60 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

**15. ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

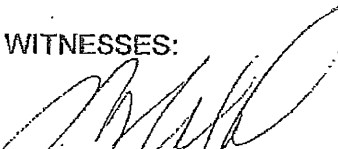
**16. REAL ESTATE BROKERS:** SELLER and BUYER hereby agree to indemnify and hold each other harmless from and against any claims by a real estate broker claiming by or through SELLER or BUYER.

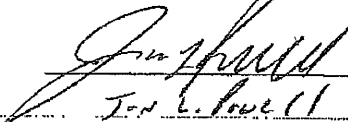
**17. POSSESSION:** SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein. Notwithstanding the foregoing, SELLER will terminate any and all leases prior to closing and deliver the property vacant of any tenants, however, BUYER acknowledges that any such lease termination by SELLER requires ninety (90) day notice to the tenant. In the event that the closing occurs prior to tenants' 90 day lease termination notice, BUYER will retain 10% of closing funds in escrow, until the end of the 90 day notice period. If tenant has vacated, then all funds will be returned to SELLER. If tenant has remained on premises, then BUYER will utilize funds to evict and remove tenant. Balance of funds will be returned to SELLER, less fees and costs, upon finalizing the eviction.

18. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

19. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

WITNESSES:

  
\_\_\_\_\_  
Strawberry 2-14-10/2010-5/10

  
\_\_\_\_\_  
J. L. Powell

CHARLIE GREEN, CLERK

SELLER:

Fifth Third Bank

By: 

(DATE)

5/27/10

BUYER:

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_

DEPUTY CLERK (DATE)

BY: \_\_\_\_\_

CHAIR OR VICE CHAIR

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

\_\_\_\_\_  
COUNTY ATTORNEY (DATE)

## **SPECIAL CONDITIONS**

Page 1 of 2

1. Access (1113 Estero Boulevard) – this purchase is subject to the parcel located at 1113 Estero Boulevard having ingress and egress to either Estero Boulevard or Fifth Avenue. Satisfaction that access exists and is acceptable is at the sole discretion of BUYER. If BUYER is not satisfied that acceptable access exists, BUYER may terminate this Agreement without obligation.
2. Parking – BUYER intends to use the parcel at 1113 Estero Boulevard for parking. If the BUYER does not receive the authority or receive reasonable assurance that authority, as determined by BUYER, from the Town of Fort Myers Beach will be granted for parking upon this site, BUYER may terminate this Agreement without obligation.
3. Demolition Costs – BUYER intends to demolish the building located at 1113 Estero Boulevard. If BUYER determines that demolition costs, including any environmental and/or petroleum related clean up caused by the demolition, will exceed \$250,000, BUYER may terminate this Agreement without obligation.
4. SELLER will provide BUYER with copies of all surveys it has for the property (all parcels), within five days of the full execution of this Purchase Agreement.
5. The purchase of this property is subject to execution and recording of an appropriate release or termination with respect to any and all developer/development agreements affecting the property to be purchased. If aforesaid agreements, if any, are not released or terminated to BUYER's satisfaction, BUYER may terminate this Agreement without obligation.
6. SELLER will retain the liquor license, if any, that may be attributed to the property.
7. Audits – BUYER will have up to 30 days from the date of execution of this Agreement by the BUYER to perform its audits; environmental, mold, asbestos, and structural and mechanical. SELLER will deliver copies of all audits and studies it has completed on the property consistent with Special Condition 4.
8. Service and Vendor Contracts – SELLER will cancel all service and vendor contracts as of the date of closing.
9. If the total land area of the property is less than 116,000 square feet, as determined by a current survey, the purchase prices will be adjusted downward at \$50 per square foot, provided however, that any decrease in price gives SELLER the right to cancel this Agreement.
10. Any time frames identified in this Agreement may be extended by mutual agreement.
11. All terms and conditions set forth in the Special Conditions will survive the closing of this transaction but in no event longer than six months from the date of closing.

**SPECIAL CONDITIONS**  
Page 2 of 2

WITNESSES:

Michele L. Weir

Michele L. Weir

Stanley B. Andrzejewski

SELLER: Fifth Third Bank

(DATE)

Klay Schmeisser, SVP

(DATE)

5/27/10

CHARLIE GREEN, CLERK

BUYER:

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

BY:

DEPUTY CLERK (DATE)

BY:

CHAIR OR VICE-CHAIR

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY

COUNTY ATTORNEY

(DATE)

## Exhibit "A"

Lots 1, 2, 3 and 4, Block 6, of that certain subdivision known as BUSINESS CENTER, according to the plat thereof recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

Also, a parcel in Government Lot 1, Section 24, Township 46 South, Range 23 East, Estero Island, Lee County, Florida, described as follows:

From a concrete monument (PRM) marking the Southerly corner of Lot 1, Block 6 of the aforesaid BUSINESS CENTER subdivision, run North 20°05'00" East for 158.00 feet; thence run South 69°51'55" East for 100.00; thence run South 20°07'40" West for 35.00 feet; thence run South 69°52'50" East for 50.00 feet; thence run South 20°06'50" West for 123.00 feet; thence run North 69°53'10" West for 150.00 feet to the Point of Beginning.

Less and except that part of the above described land shown as Parcel 102 in that Order of Taking recorded in O.R. Book 1164, Page 129, Public Records of Lee County, Florida and described as follows:

Commence at the Southwest corner of Lot 7, Block 8, of the aforesaid BUSINESS CENTER subdivision; thence run South 70°37'09" East 185.55 feet to a Point of Beginning; thence continue South 70°37'09" East 82.00 feet; thence North 60°15'10" West 83.36 feet; thence North 42°58'04" West 28.45 feet; thence South 22°23'59" East 37.82 feet to the Point of Beginning.

Bearings are from assuming the East line of aforesaid BUSINESS CENTER subdivision to be North.

(ID #24-46-23-W3-00026.0010)

AND

From the Southwest corner of Block B of CRESCENT PARK ADDITION, according to the map of plat thereof on file and recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, Lee County, Florida, and run South along said line for 53.24 feet to the South line of the existing County Road right-of-way 50 feet wide; thence deflect 110°06' right and run Northwesterly along said right-of-way line for 157.63 feet to the Point of Beginning of the lands herein described. From the Point of Beginning continue Northwesterly along said right-of-way line for 200 feet; thence Southwesterly on a perpendicular to the first mentioned course for 178 feet, more or less, to the Gulf of Mexico; thence run Southeasterly along said Gulf to a point on a line perpendicular to said road through the Point of Beginning; thence run Northeasterly along said perpendicular for 213 feet, more or less, to the Point of Beginning.

(ID #24-46-23-W3-00013.0000)

AND

A tract of land in Government Lot 1, Section 24, Township 46 South, Range 23 East, described as follows:

From the Southwest corner of Block E, CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, on the East line of said Section 24, run South along said line for 53.24 feet to the South line on a County Road right-of-way 50 feet wide; thence run Northwesterly at an included angle of 69°54' with said section line and along said road right-of-way for 357.63 feet to the Point of Beginning of lands herein described.

From the Point of Beginning continue Northwesterly along the South line of said right-of-way for 100 feet; thence run Southwesterly and perpendicular to said road to the waters of the Gulf of Mexico; thence run Southeasterly along said water to a point on a line perpendicular to said road through the Point of Beginning; thence run Northeasterly along said perpendicular line to the Point of Beginning of lands herein described (the "Land").

(ID #24-46-23-W3-00014.0000)

AND

From the Southwest corner of Block "E", CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 46, Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run South along said line for 53.24 feet to the South line of a County Road right of way 50 feet wide; thence Northwesterly at an inclusive angle of 69°54' with said Section line along the South line of said right of way for 457.63 feet to the Point of Beginning of the land herein described; from said point continue Northwesterly along the South line of said right of way for 75 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southwesterly along said waters to a point on a line perpendicular to said road to the waters of the Gulf of Mexico; thence Southwesterly along said waters to a point on a line perpendicular to said road through the Point of Beginning; thence Northeasterly along said perpendicular line to the Point of Beginning (the "Land")

(ID #24-46-23-W3-00015.0000)

ORIGINAL

STRAP Nos.: 24-46-23-W3-00013.0000; 14.0000; 15.0000 & 24-46-23-W3-00206.0010

AFFIDAVIT OF INTEREST IN REAL PROPERTY

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered this 27<sup>th</sup> day of MAY 2010 for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms under oath, subject to the penalties prescribed for perjury, that the following is true:

The Name and Address of the Grantor is:

Fifth Third Bank IS 100% OWNED BY FIFTH THIRD FINANCIAL CORPORATION,  
WHICH IS OWNED BY FIFTH THIRD BANCORP, WHICH IS TRADED ON  
THE NASDAQ UNDER TICKER FITB.

The name(s), address(es), and percentage of ownership of every person having a beneficial interest in real property that will be conveyed to Lee County are:

NAME	ADDRESS	%

The real property to be conveyed to Lee County is known as:

**SEE ATTACHED EXHIBIT "A"**

FURTHER AFFIANT SAYETH NAUGHT.

Signed, sealed and delivered  
in our presences:

[Signature]  
Witness Signature

Tony L. Powell  
Printed Name

[Signature]  
Witness Signature

Michele L. Weir  
Printed Name

[Signature]  
Signature of Affiant

KLAY SCHMEISSER, SVP  
Printed Name and Title

ORIGINAL DOCUMENTS REPAIRED IN  
COUNTY LANDS FILES FOR HANDLING  
FOR BOARD ACCEPTANCE.

Affidavit of Interest in Real Property

Page 2 of 2

STRAP Nos.: 24-46-23-W3-00013.0000; 14.0000; 15.0000 & 24-46-23-W3-00206.0010

STATE OF Florida

COUNTY OF Collier

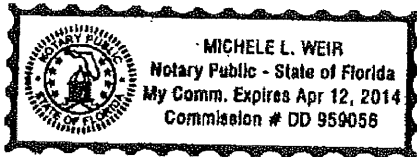
SWORN TO AND SUBSCRIBED before me this 21<sup>st</sup> day of May, 2010 by

Klay Schmirer, Senior Vice President, of Fifth Third Bank  
(name of officer or agent, title of officer or agent) (name of

an Ohio corporation, on  
corporation acknowledged)

behalf of the corporation.

(SEAL)



Michele L. Weir  
(Notary Signature) Michele L. Weir

(Print, type or stamp name of Notary)

Personally known ☒  
OR Produced Identification ☐  
Type of Identification \_\_\_\_\_

## Exhibit "A"

Lots 1, 2, 3 and 4, Block 6, of that certain subdivision known as BUSINESS CENTER, according to the plat thereof recorded in Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida.

Also, a parcel in Government Lot 1, Section 24, Township 46 South, Range 23 East, Estero Island, Lee County, Florida, described as follows:

From a concrete monument (PRM) marking the Southern corner of Lot 1, Block 6 of the aforesaid BUSINESS CENTER subdivision, run North 20°06'00" East for 158.00 feet; thence run South 69°51'55" East for 100.00; thence run South 20°07'40" West for 33.00 feet; thence run South 69°52'50" East for 50.00 feet; thence run South 20°06'50" West for 123.00 feet; thence run North 69°53'10" West for 150.00 feet to the Point of Beginning.

Less and except that part of the above described land shown as Parcel 102 in that Order of Taking recorded in O.R. Book 1164, Page 129, Public Records of Lee County, Florida and described as follows:

Commence at the Southwest corner of Lot 7, Block 8, of the aforesaid BUSINESS CENTER subdivision; thence run South 70°37'09" East 185.55 feet to a Point of Beginning; thence continue South 70°37'09" East 82.00 feet; thence North 60°15'10" West 83.36 feet; thence North 42°58'04" West 28.45 feet; thence South 22°23'59" East 37.82 feet to the Point of Beginning.

Bearings are from assuming the East line of aforesaid BUSINESS CENTER subdivision to be North.

(ID #24-46-23-W3-00010.0010)

00206

AND

From the Southwest corner of Block E of CRESCENT PARK ADDITION, according to the map of plat thereof on file and recorded in Plat Book 4, Page 46, of the Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, Lee County, Florida, and run South along said line for 53.24 feet to the South line of the existing County Road right-of-way 50 feet wide; thence deflect 110°06' right and run Northwesterly along said right-of-way line for 157.63 feet to the Point of Beginning of the lands herein described. From the Point of Beginning continue Northwesterly along said right-of-way line for 200 feet; thence Southwesterly on a perpendicular to the first mentioned course for 178 feet, more or less, to the Gulf of Mexico; thence run Southeasterly along said Gulf to a point on a line perpendicular to said road through the Point of Beginning; thence run Northeasterly along said perpendicular for 213 feet, more or less, to the Point of Beginning.

(ID #24-46-23-W3-00013.0000)

AND

A tract of land in Government Lot 1, Section 24, Township 46 South, Range 23 East, described as follows:

From the Southwest corner of Block B, CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, on the East line of said Section 24, run South along said line for 53.24 feet to the South line on a County Road right-of-way 50 feet wide; thence run Northwesterly at an included angle of 69°54' with said section line and along said road right-of-way for 357.63 feet to the Point of Beginning of lands herein described.

From the Point of Beginning continue Northwesterly along the South line of said right-of-way for 100 feet; thence run Southwesterly and perpendicular to said road to the waters of the Gulf of Mexico; thence run Southeasterly along said water to a point on a line perpendicular to said road through the Point of Beginning; thence run Northeasterly along said perpendicular line to the Point of Beginning of lands herein described (the "Land").

(ID #24-46-23-W3-00014.0000)

AND

From the Southwest corner of Block "E", CRESCENT PARK ADDITION, as recorded in Plat Book 4, Page 46, Public Records of Lee County, Florida, on the East line of Section 24, Township 46 South, Range 23 East, run South along said line for 53.24 feet to the South line of a County Road right of way 50 feet wide; thence Northwesterly at an inclusive angle of 69°54' with said Section line along the South line of said right of way for 457.63 feet to the Point of Beginning of the land herein described; from said point continue Northwesterly along the South line of said right of way for 75 feet; thence Southwesterly perpendicular to said road to the waters of the Gulf of Mexico; thence Southwesterly along said waters to a point on a line perpendicular to said road to the waters of the Gulf of Mexico; thence Southwesterly along said waters to a point on a line perpendicular to said road through the Point of Beginning; thence Northeasterly along said perpendicular line to the Point of Beginning (the "Land") (ID #24-46-23-W3-00015.0000)



**HANSON REAL ESTATE ADVISORS, INC.**  
Real Estate Consulting, Valuation and Brokerage

May 5, 2010

Lee County Board of County Commissioners  
c/o Division of County Lands  
Attention: Robert G. Clemens  
Acquisition Program Manager  
Division of County Lands  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Re: HREA Assignment No.: 10003002  
Project No: 8617  
Project Name: Fifth Third Properties – Land Sale/Acquisition Opp., Parcels 1 - 6  
Owner: Fifth Third Bank  
Market Area: Town of Fort Myers Beach  
County: Lee County, Florida

Dear Mr. Clemens:

Hanson Real Estate Advisors, Inc. ("the Appraiser") has completed the real property appraisal assignment identified above. A description of the appraisal problem, scope of work, facts, analyses, opinions and conclusions are contained in the real property summary appraisal report attached to this letter of transmittal.

The client is the Lee County Board of County Commissioners, c/o the Division of County Lands, Attention: Robert G. Clemens, Acquisition Program Manager. The intended users are the Client. Use of this report by others, is not intended by the Appraiser. The intended use of this appraisal report is to provide the intended users an estimate of market value (of the fee simple estate) for use and consideration in the potential acquisition of properties identified herein, by the Lee County Board of County Commissioners. This report is not intended for any other use.

Parcels 1 & 2, consists of a gulf-front site containing approximately 1.78 acres (77,587 SF) of gross land area, which is located along the south side of Estero Boulevard in the downtown market area of Fort Myers Beach. The site has been developed with a 69 room "limited-service" lodging facility known as the Pierview Hotel & Suites.

Parcels 3 - 5, consists of three undeveloped gulf-front sites containing approximately 2.20 acres (95,647 SF) of gross land area, which is located along the south side of Estero Boulevard in the downtown market area of Fort Myers Beach.

Parcel 6, consists of a site containing approximately 0.66 acres (28,656 SF) of gross land area, which is located along the north side of Estero Boulevard in the downtown market area of Fort Myers Beach. The site has been developed with a three-story, elevator-serviced, multi-tenant, retail building, which was built in 1979. The property is known as the Seafarer's Village Mall.

Robert G. Clemens  
Acquisition Program Manager  
May 5, 2010  
Page 2

Based upon the scope of work completed herein; the quality and quantity of data available and analyzed within the market approach to value; the applicability and relevance of the approach, methods, and techniques used to arrive at the value conclusion; and the Appraiser's experience in the real estate profession; it is the Appraiser's opinion that the market value of the fee simple estate (subject to noted exceptions) for those properties identified herein, as of the effective date of appraisal, is:

Parcels 1 & 2  
Four Million Four Hundred Eighty-Five Thousand Dollars *(NOT INCLUDED)*  
(\$4,485,000)

Parcels 3 - 5  
Four Million Seven Hundred-Thirty Thousand Dollars *(Gulf front)*  
(\$4,730,000)

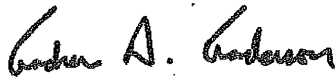
Parcel 6  
One Million Five Hundred Eighty Thousand Dollars *(Seafarer's)*  
(\$1,580,000)

If you have any questions regarding the data, analyses, opinions or conclusions reported herein, please contact this office at your earliest convenience. Thank you for allowing Hanson Real Estate Advisors, Inc. the opportunity to provide you real property appraisal services at this time.

Respectfully submitted,



Woodward S. Hanson, MAI, CRE, CCIM, FRICS  
St. Cert. Gen. REA RZ 1003



Andrew D. Anderson, MBA  
St. Cert. Gen. REA RZ 3175

## EXECUTIVE SUMMARY

1. PROJECT NO.: 8617
2. PROJECT NAME: Fifth Third Properties – Land Sale/Acquisition Opp.
3. PARCEL NOS.: 3 - 5
4. OWNER OF RECORD: Fifth Third Bank
5. STRAP NUMBER(S): 24-46-23-W3-00015.0000, 24-46-23-W3-00014.0000,  
24-46-23-W3-00013.0000
6. GENERAL LOCATION: Along south side of Estero Boulevard in the downtown market  
area of Fort Myers Beach.
7. APPROXIMATE LAND SIZE: 2.20 acres (95,647 SF) of gross land area.
8. IMPROVEMENTS: The site is undeveloped.
9. ZONING: DOWNTOWN & Environmentally Critical
10. FUTURE LAND USE: PEDESTRIAN COMMERCIAL & RECREATION
11. ESTIMATE OF VALUE – COST APPROACH: N/A
12. ESTIMATE OF VALUE – SALES COMPARISON APPROACH: \$4,730,000
13. ESTIMATE OF VALUE – INCOME CAPITALIZATION APPROACH: N/A
14. FINAL VALUE ESTIMATE: \$4,730,000
15. PER UNIT VALUE: \$50.00 Per square foot & \$13,000 Per front foot
16. INTEREST APPRAISED: Fee Simple Interest
17. DATE OF VALUATION: May 3, 2010
18. APPRAISER(S): Woodward S. Hanson, MAI, CRE, CCIM, FRICS &  
Andrew D. Anderson, MBA

## EXECUTIVE SUMMARY

1. PROJECT NO.: 8617
2. PROJECT NAME: Fifth Third Properties – Land Sale/Acquisition Opp.
3. PARCEL NO.: 6
4. OWNER OF RECORD: Fifth Third Bank
5. STRAP NUMBER: 24-46-23-W3-00206.0010
6. GENERAL LOCATION: Along north side of Estero Boulevard in the downtown market area of Fort Myers Beach.
7. APPROXIMATE LAND SIZE: 0.66 acres (28,656 SF) of gross land area.
8. IMPROVEMENTS: The site is improved with a multi-tenant retail building known as the Seafarer's Village Mall.
9. ZONING: CPD
10. FUTURE LAND USE: PEDESTRIAN COMMERCIAL
11. ESTIMATE OF VALUE – COST APPROACH: N/A
12. ESTIMATE OF VALUE – SALES COMPARISON APPROACH: N/A
13. ESTIMATE OF VALUE – INCOME CAPITALIZATION APPROACH: \$1,580,000
14. FINAL VALUE ESTIMATE: \$1,580,000
15. INTEREST APPRAISED: Fee Simple Interest
16. DATE OF VALUATION: May 3, 2010
17. APPRAISER(S): Woodward S. Hanson, MAI, CRE, CCIM, FRICS & Andrew D. Anderson, MBA

**MEMORANDUM**  
FROM  
**OFFICE OF THE COUNTY MANAGER**

DATE: May 27, 2010

To: BoCC

FROM: Pete Winton

Asst. County Manager

**RE: Funding for Fort Myers Beach property purchase**

Commissioners:

In reference to the \$5.6 million purchase for the Fort Myers Beach property on the June 1 agenda, there is capacity in the county's overall budget to do this. However, the Board should discuss which fund, or combination of funds, should be used for the purchase, and based on that discussion, whether any interfund loans would be involved.

In briefings, we discussed using tourist tax reserves. However, there is a sensitivity to whether this should be the sole funding source at this time due to the uncertainties of the Gulf oil spill and its impact locally, and the precedent-setting nature of this purchase.

We have identified three funds that have current capacity for the purchase or loan:

**Tourist Tax Reserves (Beach and Shoreline portion)**

Reserves are accumulated in this fund from what is unspent of the annual 26.4% allocation of tourist tax revenues. The current reserves are allocated in the following way –

Beach Renourishment (net of Estero Island project)	\$4,578,486
Reserve for future capital outlay	3,769,200
Reserve for hurricanes	<u>2,500,000</u>
TOTAL	10,847,686

**General Fund Reserves**

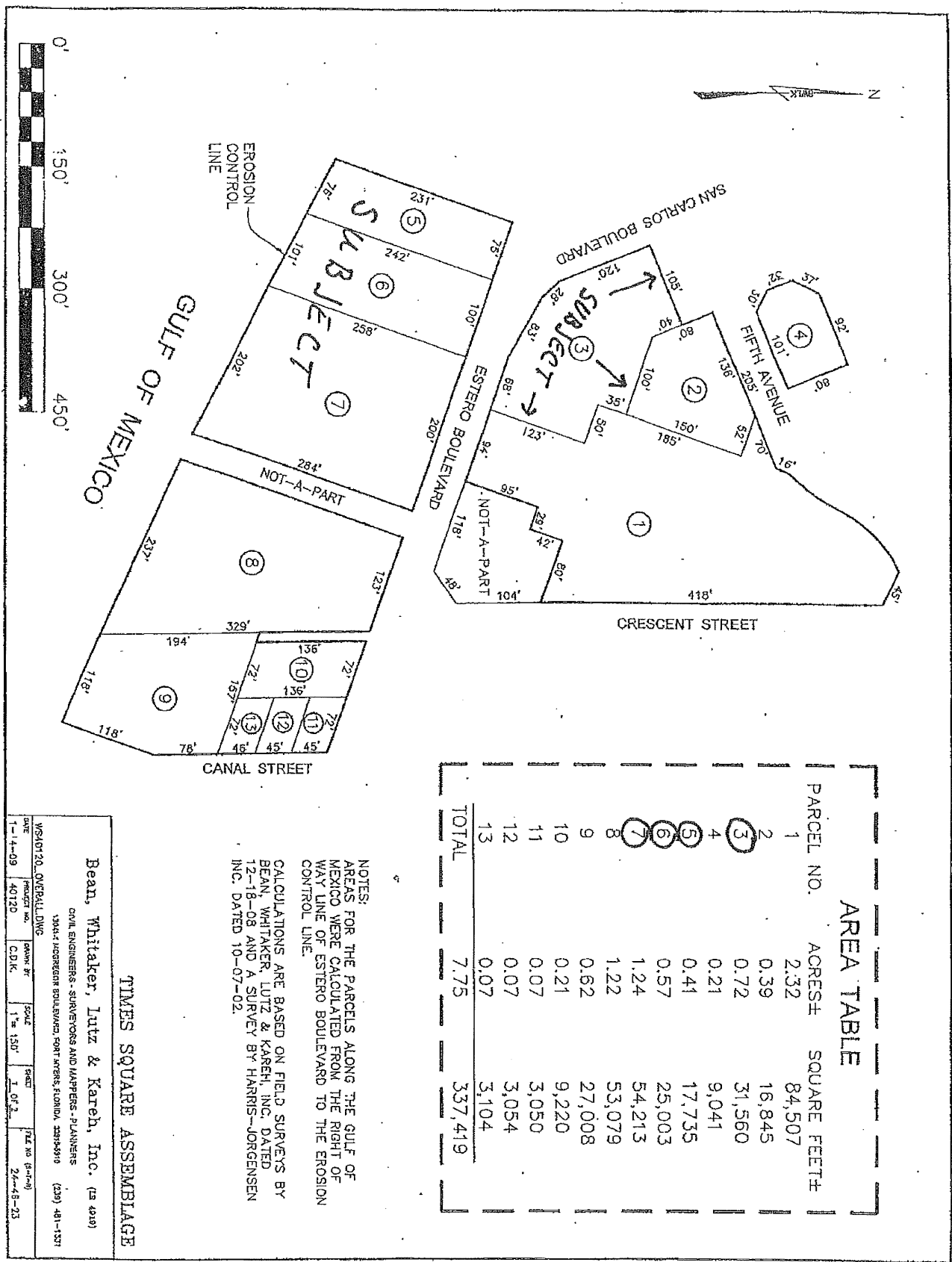
Reserves in this fund are adequate for a purchase, as a loan or otherwise.

**Unincorporated MSTU Fund Reserves**

Reserves in this fund are adequate for a purchase, particularly once bonding is completed for the Red Sox stadium.

Based on your discussion, we will come back with a final financing plan. Thank you.

Cc: County Attorney



AREA TABLE

PARCEL NO.	ACRE±	SQUARE FEET±
1	2.32	84,507
2	0.39	16,845
3	0.72	31,560
4	0.21	9,041
5	0.41	17,735
6	0.57	25,003
7	1.24	54,213
8	1.22	53,079
9	0.62	27,008
10	0.21	9,220
11	0.07	3,050
12	0.07	3,054
13	0.07	3,104
TOTAL	7.75	337,419

NOTES:  
 AREAS FOR THE PARCELS ALONG THE GULF OF MEXICO WERE CALCULATED FROM THE RIGHT OF WAY LINE OF ESTERO BOULEVARD TO THE EROSION CONTROL LINE.

CALCULATIONS ARE BASED ON FIELD SURVEYS BY BEAN, WHITAKER, LUTZ & KAREH, INC. DATED 12-18-08 AND A SURVEY BY HARRIS-JORGENSEN INC. DATED 10-07-02.

TIMES SQUARE ASSEMBLAGE

Bean, Whitaker, Lutz & Kareh, Inc. (25 495)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

1304-4 INDEPENDENCE BOULEVARD, PORT WATERS, FLORIDA 32939-9916 (335) 461-1337

WS10120, OVERALL DWG

DATE 1-14-09 PROJECT NO. 40120 DRAWN BY C.D.K. SCALE 1" = 150' SHEET 1 OF 2 FILE NO. (25-495) 24-48-23